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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,487	03/09/2004	Yuichi Ueda	MM8844US	2312
22203	7590	02/15/2007	EXAMINER	
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/15/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,487	UEDA, YUICHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory W. Adams	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 December 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2 and 4-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Objections***

Claims 2 & 5-6 are objected to because of the following informalities: With respect to forming (see claim 2, line 16 for example), it is confusing whether the running truck body, upper truck body and poles have been formed from rectangular pipe, e.g. manufactured as in product by process, or are rectangular in shape. The former does not necessarily mean that the finished product is rectangular; only that the raw product that used to make the parts was rectangular. Examiner suggests the following language to clear any uncertainty: --rectangular in shape--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

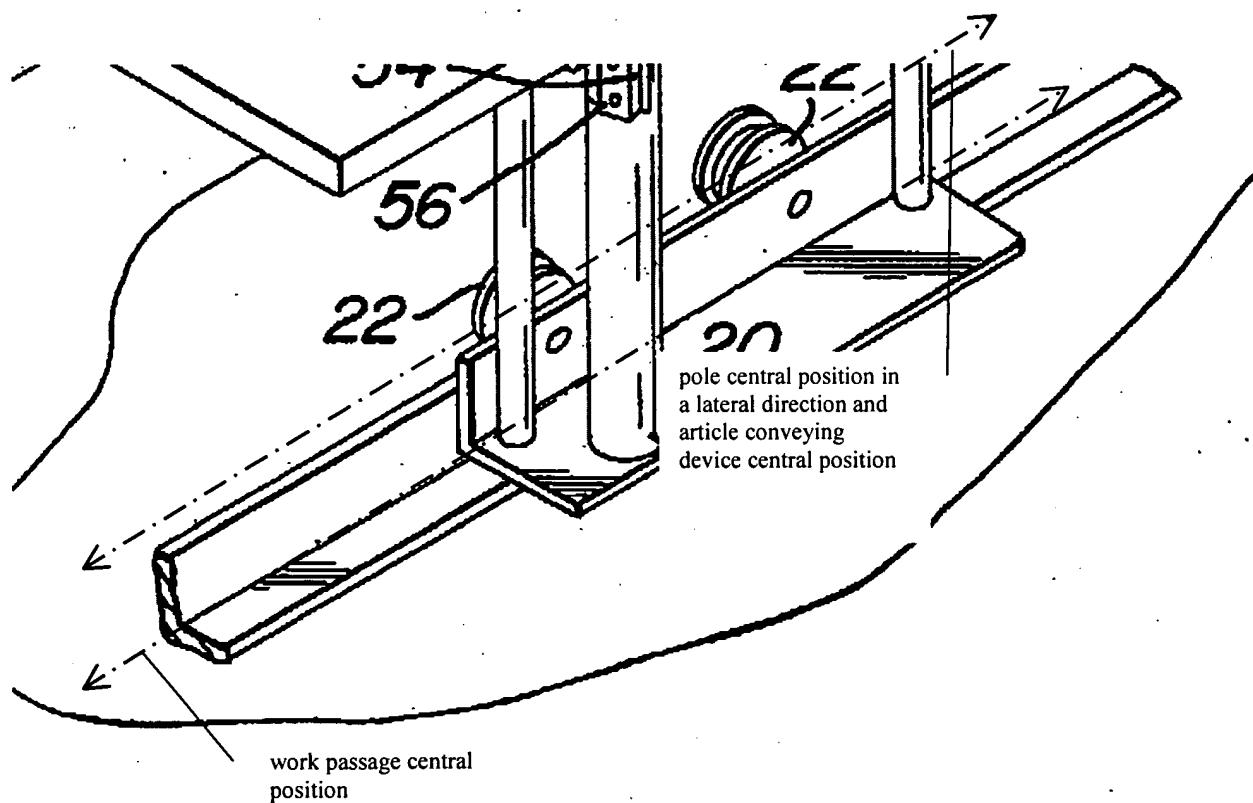
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2, 4-5, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US 4,113,119) (previously cited) in view of Paulmichl (US 6,109,853).

With respect to claims 2, 4-5, 8-9, Brown et al. disclose an apparatus comprising an elongated truck body 20, platform 36, 84, upper truck body 18, wheels 22 provided in a running truck body 20, and raising and lowering poles 33, 34 connected to a same vertical side surface. Brown et al. discloses attaching poles to vertical side faces (FIG. 1) of an upper truck body 18, and does not disclose forming a truck body, upper truck body and poles from one-piece rectangular pipe having four flat sides and connecting

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poles to a truck body vertical side. It is noted that "central position" is a relative term. A line that runs through the center of Browns poles 22 is a center line as it runs through the center of the poles. This is also the center line of the apparatus as a whole as the apparatus comprises the poles 22. And where ever the apparatus operates is inherently a work passage. Thus, the center line of the apparatus is inherently in the exact position as the center of the work passage. See figure below.



With respect to FIG. 2, Paulmichl discloses a wheels in a running truck body, rectangular shaped elongated truck body, upper truck body, and poles 14-17 from one-piece rectangular pipe and further discloses attaching poles 14-17 to vertical side faces of an elongated truck body. It is noted that as Paulmichl discloses seamless rectangular

tubing they inherently are formed from one-piece rectangular pipe. Paulmichl teaches an apparatus comprising these elements produces an apparatus of "much higher speed of handling" and operating "safely and relatively free of wear and tear." C1/L30-38. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brown's apparatus to include wheels in a running truck body, a rectangular shaped elongated truck body, upper truck body, and poles from one-piece rectangular pipe and attaching poles to vertical side faces of an elongated truck body, as per the teachings of Paulmichl, for improved performance, safety and reliability.

With respect to claim 2, line 16 (see also claims 5-6) and claim language comprising forming, i.e. manufacturing, an elongated running truck body and poles from rectangular pipe Applicant is respectfully reminded that in a product-by-process claim patentability of a product does not depend on its method of production wherein determination of patentability is based on the product itself. MPEP 2113. In this case, by definition since the cited prior art discloses rectangular elongated truck body and poles they were formed from one-piece rectangular tubing.

2. Claims 6 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US 4,113,119) in view of Paulmichl (US 6,109,853) and Ohgita et al. (US 5,450,929) (previously cited).

With respect to claim 6, Brown et al. disclose an apparatus comprising an elongated truck body 20, platform 36, 84, upper truck body 18, wheels 22, and raising and lowering poles 33, 34 connected to a same vertical side surface. Brown et al.

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discloses attaching poles to vertical side faces (FIG. 1) of an upper truck body 18, and does not disclose rope, forming a truck body, upper truck body and poles from one-piece rectangular pipe having four flat sides and connecting poles to a truck body vertical side. With respect to FIG. 2, Paulmichl discloses a rectangular shaped elongated truck body, upper truck body, and poles 14-17 from one-piece rectangular pipe and further discloses attaching poles 14-17 to vertical side faces of an elongated truck body. It is noted that as Paulmichl discloses seamless rectangular tubing they inherently are formed from one-piece rectangular pipe. Paulmichl teaches an apparatus comprising these elements produces an apparatus of "much higher speed of handling" and operating "safely and relatively free of wear and tear." C1/L30-38. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brown's apparatus to include a rectangular shaped elongated truck body, upper truck body, and poles from one-piece rectangular pipe and attaching poles to vertical side faces of an elongated truck body, as per the teachings of Paulmichl, for improved performance, safety and reliability.

Ohgita et al. discloses a pair of ropes (generally indicated as 30) are connected to a platform 16 in a vicinity of a center. C7/L60-62. Ohgita et al. teach a drive device, two ropes for lifting a platform such that maintenance-elevator-equipped handling apparatus "permits easy and safe transfer between a carriage and a maintenance elevator." C3/L10-11. It is noted that Ohgita et al. disclose that "ropes and chains or the like" are well known in the art as providing a vertical drive unit. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the apparatus of Brown et al. to include a pair of ropes and drive device, as per the teachings of Ohgita et al., to permit easy and safe transfer between a carriage and maintenance elevator.

With respect to claim 10, Brown does not disclose control panel. Ohgita discloses a control panel 55, 135 "to drive the motor to rotate the vertical drive chain forward and reverse, whereby the elevator cab will be moved upward and downward along the guide rail." Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Brown et al. to include a control panel, as per the teachings of Ohgita et al., to permit an operator access to a drive motor and chain.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US 4,113,119) in view of Paulmichl (US 6,109,853), Ohgita et al. (US 5,450,929) and Lukasey et al. (US 3,891,063) (previously cited).

With respect to claim 7, Brown et al. does not disclose a tension springs and chain bolts. Brown et al. discloses a spring 96 and chain bolt 92 connecting a rope end 54 such that spring 96 biases a platform downwardly, and the extent to which the spring can be preloaded is determined by the position of the locknuts 95 along the threaded lower end of the post. C7/L10-25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Brown to include springs and chain bolts to bias platform downwardly.

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4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US 4,113,119) (previously cited) in view of Paulmichl (US 6,109,853) and Piccini (US 6,042,322).

With respect to claim 8, Brown et al. do not disclose a drive running device.

Piccini discloses a drive running device 202 located on a vertical side of a raising and lowering pole 101 opposite from a vertical side surface of a raising and lowering pole connecting to a vertical side surface of a running truck body that improve ergonomic management of the store and stability of stacking metal sheets. C1/L45-55. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Brown et al. to locate a drive running device on a vertical side opposite a pole and elongated body, as per the teachings of Piccini, to improve ergonomics and stability of storage.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US 4,113,119) in view of Paulmichl (US 6,109,853) and Benjamin (US 4,286,911) (previously cited).

With respect to claim 11, Brown et al. does not disclose a shock absorber.

Benjamin discloses a shock absorber 35 which "are pressed inwardly when the crane contacts an obstacle during its travel, such as a projecting pallet or an end stop signaling that the crane is nearing a wall; the depression of the bumper immediately disables the driving force for the crane and brings same to a halt." C6/L15-22. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Brown et al. to include shock

absorbers, as per the teachings of Benjamin to disable an apparatus when nearing a wall.

***Response to Arguments***

Applicant's arguments filed 12/19/2006 have been fully considered but they are not persuasive.

It is noted that "central position" is a relative term. Without a frame of reference any line is a center line. A line that runs through the center of Browns poles 22 is a center line as it runs through the center of the poles. This is also the center line of the apparatus as a whole as the apparatus comprises the poles 22. And Brown's apparatus operates inherently in a work passage where the work passage is configured to place the poles 22 at the work passage center. The apparatus travels along the work passage. Thus, the center line of the apparatus is inherently in the exact center of the work passage.

***Conclusion***

This is a Final Rejection of applicant's earlier Application No. 10/797,487. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

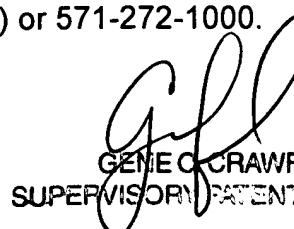
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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SUPERVISORY PATENT EXAMINER

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